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OFFICE OF PETITIONS

In re Patent No. 7,098,674 :
Stanley et al. :
Issue Date: August 29, 2006 : LETTER REGARDING
Application No. 10/707,238 : PATENT TERM ADJUSTMENT
Filed: November 30, 2003 :
Attorney Docket No. 5701-02263 :

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed October 3, 2006, pursuant to patentee's duty of good faith and candor. Patentees disclose that the patent term adjustment indicated on the patent may be incorrect.

The request for reconsideration of patent term adjustment is **GRANTED-IN-PART**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seventy-two (72) days.

On August 29, 2006, the above-identified application matured into U.S. Patent No. 7,098,674, with a revised Patent Term Adjustment of 320 days. Patentees state no basis for their assertion that this calculation may be incorrect.

On October 3, 2006, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee).

Patentees' attempt at candor is appreciated, and the PTA calculation appears to be incorrect.

A period of adjustment of 440 days was entered pursuant to 37 CFR §§ 1.702(a)(2) and 1.703(a)(2) for the mailing of a notice of allowance and issue fee due on July 27, 2006, more than 4 months from the receipt of the notice of appeal on July 21, 2005, and 1.703(a)(6) for the issuance of this patent on August 29, 2006, which is more than four months from the payment of the issue fee on October 18, 2005. This period was properly reduced by 120 days pursuant to 37 CFR 1.704(c)(10) for the filing of a "statement of substance of interview" on August 9, 2005, subsequent to the submission of the issue fee.

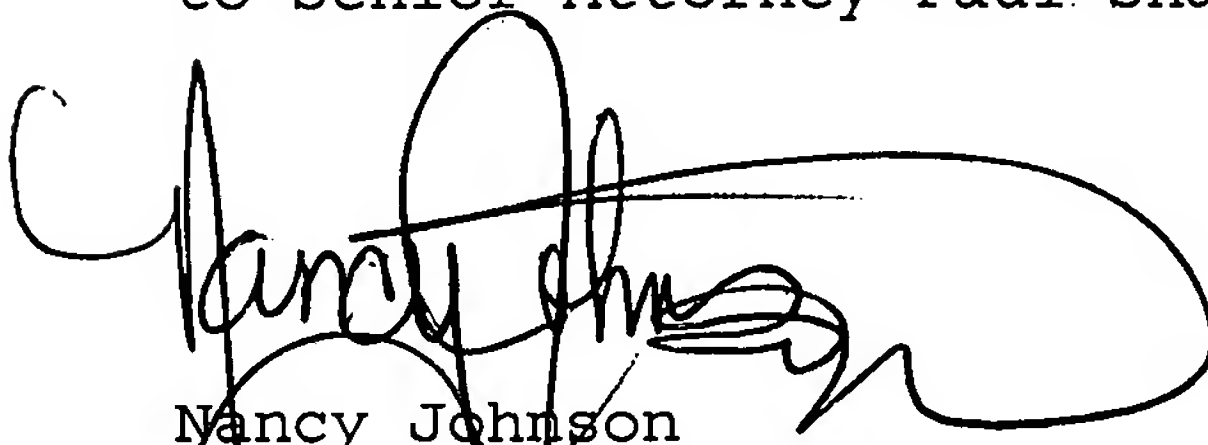
It is noted that the notice of allowance and issue fee due was mailed on August 5, 2005, and not on July 27, 2006. Consequently, the Office delay amounted to 192 days, and not 440.

In view thereof, the patent should have issued with a revised patent term adjustment of 192 minus 120, or 72 days.

In view thereof, the patent should have issued with a patent term adjustment of seventy-two (72) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seventy-two (72) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanowski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,098,674 B2
DATED : August 29, 2006
INVENTOR(S) : Stanley et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (320) days

Delete the phrase "by 320" and insert – by 72 days--